

Department of Public Health and
Human Services (DPHHS)

Health Insurance Portability and Accountability (“HIPAA”) Privacy Policy

John Chappuis, Deputy Director

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Revised Date:

Policy Title:	Employee Sanctions for Releases of Protected Health Information in Violation of HIPAA Privacy Policies		
Policy Number:	012	Version:	1.0
Approved By:			
Date Approved:			

Purpose:

This policy addresses disciplinary action to be taken toward DPHHS employees who release Protected Health Information (“PHI”) in violation of HIPAA Privacy Policies.

Policy:

Employees of DPHHS must abide by the policies concerning the uses and disclosures of PHI. Uses and disclosures that violate these policies will be subject to disciplinary action in accordance with the DPHHS Discipline and Discharge Policy #140 and MOM Policy #3-0130.

1. If a DPHHS employee uses or disclosures PHI that is outside of those allowed by the HIPAA policies, that employee must make that disclosure known immediately to his/her supervisor.
 - a. When an improper use or disclosure of PHI is reported the supervisor shall conduct an investigation to determine whether that use or disclosure was intentional, malicious or unintentional.
 - b. The supervisor shall determine the appropriate disciplinary action, counseling, training or other action on a case-by-case basis.
 - c. When determining the level of disciplinary action, consideration should be given to whether or not the offending employee voluntarily informed the supervisor of the improper use or disclosure of PHI. Also, the supervisor should work with the Office of Human Resources to determine the appropriate level of discipline.

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2. In all cases, DPHHS supervisors must document disciplinary and corrective actions in the employee personnel file in accordance with the terms of the employee's collective bargaining agreement or other applicable DPHHS policies. Documents in the personnel file pertaining to specific disclosure of PHI will be sufficient to comply with the requirements of 45CFR 164.530(c)(2) and may need to be made available to the Office for Civil Rights if they are investigating a complaint concerning the employee. The personnel officer must approve release of specific documents from the employee's personnel file.
3. Supervisors must also make the Privacy Officer aware of any improper uses and disclosures so that appropriate risk management procedures may take place. The Privacy Officer will confer with Division Administrators and/or the Department Director to plan appropriate steps to mitigate risks presented by the improper uses or disclosures.
4. The Privacy Officer or designee shall log all improper uses and disclosures on the disclosure log. This log will be made available to the client if review of the log is requested, to the extent applicable to the client's complaint.

Procedure:

MCDC will follow the above DPHHS State of Montana policy. Attached are the DPHHS Discipline and Discharge Policy #140 and MOM Policy #3-0130 mentioned in the policy statement.

Procedure added 3/6/03